

**IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

EAGLE FORUM, an Illinois Not for Profit Corporation,)	
)	
)	
and)	
)	
ANNE SCHLAFLY CORI, on behalf of)	
EAGLE FORUM, et al.,)	Cause No.: 3:16-cv-946-DRH-RJD
)	
Plaintiffs,)	
v.)	
)	
PHYLLIS SCHLAFLY’S AMERICAN EAGLES,)	
a Virginia Not for Profit Corporation,)	
)	
Defendant.)	

PLAINTIFFS’ MOTION FOR LEAVE TO AMEND SCHEDULING ORDER

Plaintiffs Anne Schlafly Cori, Eunie Smith, Cathie Adams, Carolyn McLarty, Rosina Kovar, and Shirley Curry (collectively, “Plaintiffs”), by and through their undersigned counsel, hereby request leave to amend the Scheduling Order. In support of their Motion, the Plaintiffs state as follows:

1. Plaintiffs filed this lawsuit on August 24, 2016.
2. On October 10, 2016, Plaintiffs, Defendant Phyllis Schlafly’s American Eagles (“PSAE”), and Nominal Defendant Eagle Forum (“Eagle Forum”) submitted their Proposed Scheduling and Discovery Order (the “Scheduling Order”). The Court approved and entered the Scheduling Order on October 17, 2016. (Doc. 26.)
3. The Parties then engaged in briefing on PSAE’s Motion to Dismiss (Doc. 15); the Parties were realigned (Doc. 36); Plaintiffs and Eagle Forum amended their Complaint (Doc. 40); PSAE sought, and was granted, leave to file its Counterclaims (Docs. 55, 65); and the Parties experienced substantial difficulties in advancing this case through discovery due to

PSAE's refusal to produce responsive documents or otherwise respond to discovery requests as well as the refusal to comply with third-party discovery by third parties aligned with PSAE (Docs. 42, 53, 64, 67, 70, 73, 74, 75).

4. On May 19, 2017, this Court, on the Parties' joint motion, entered its Amended Scheduling Order. (Doc. 76.)

5. The Parties then engaged in briefing on Plaintiffs' and Eagle Forum's Motions to Dismiss PSAE's Counterclaim. (Docs. 77, 78, 84, 90, 91.) On October 20, 2017, this Court granted Plaintiffs' motion and dismissed PSAE's Counterclaim. (Doc. 99.)

6. The Parties also continued to experience substantial difficulties in advancing discovery due to PSAE's refusal to produce relevant and responsive documents and the refusal to comply with subpoena and Court Orders by Respondent-in-Discovery Eagle Trust Fund ("ETF"). (Docs. 82, 83, 86, 87, 89, 94, 97, 98, 100, 101, 102, 103, 109.) Most recently, PSAE and ETF jointly produced a privilege log containing nearly 1,000 documents, nearly all of which either could not conceivably be privileged or could no longer be considered privileged based upon wholesale waiver of the same by PSAE or ETF.

7. On February 1, 2018, this Court entered its Order overruling PSAE and ETF's assertion of privilege and compelling production of responsive documents by February 16, 2018. (Doc. 117.)

8. On February 15, 2018, PSAE and ETF appealed the February 1, 2018 Order to District Judge Herndon. (Doc. 120.) On March 9, 2018, the Court entered its Order denying PSAE and ETF's appeal. (Doc. 124.) However, PSAE and ETF continued to refuse to produce responsive documents despite two Orders from this Court.

9. On March 21, 2018, PSAE and ETF filed a Petition for Writ of Mandamus in the Seventh Circuit Court of Appeals. (Doc. 127.) The Parties briefed the issue before the Seventh Circuit, and on April 26, 2018, the Seventh Circuit Court of Appeals denied PSAE and ETF's Petition for Writ of Mandamus. (Doc. 130.)

10. In light of PSAE's continued stonewalling, Plaintiffs conducted third-party discovery to aid prosecution of this action; however, third parties sympathetic to PSAE (including former counsel to Eagle Forum) have attempted to obstruct every effort by Plaintiffs to seek discovery, in filing motions to quash (Docs. 47, 62, 105), motions for protective order (Docs. 62, 112), and appeals of this Court's Orders regarding the same (Docs. 128, 129).

11. In short, for well over a year, PSAE and ETF (and others) have refused to produce relevant, responsive and non-privileged documents necessary to the prosecution of this action, despite repeated attempts by Plaintiffs and multiple Orders from this Court directing them to comply with their discovery obligations. Their actions have stymied written and document discovery in this case and have prevented the parties from engaging in deposition discovery.

12. Indeed, PSAE has forced Plaintiffs to seek to hold it in contempt of this Court for its continued refusal to comply with its discovery obligations. Plaintiffs' Motion for Contempt against PSAE and ETF was filed on May 2, 2018. (Doc. 132.)

13. Despite repeated requests by Plaintiffs and the aforementioned Motion for Contempt, PSAE and ETF continue to refuse to produce relevant and responsive documents.

14. The foregoing actions, events, disputes and changes in this lawsuit have caused significant delays and necessitate a third amendment to the Scheduling Order.

15. Plaintiffs' Proposed Second Amended Scheduling Order has been submitted contemporaneously herewith via electronic mail to the Court.

16. The amendment requested is not sought for any improper purpose, will cause no unfair prejudice, and will conserve judicial resources and the parties' resources.

Respectfully submitted,

SPENCER FANE LLP

DATE: May 8, 2018

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Certificate of Service

The undersigned hereby certifies that a true and correct copy of this document was filed with the Court's electronic filing system on May 8, 2018, which will send notice to:

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